

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

SID MILLER, on behalf of himself and others
similarly situated,

Plaintiff,

v.

TOM VILSACK, in his official capacity as
SECRETARY OF AGRICULTURE,

Defendant.

Civil Action No. 4:21-cv-595-O

**MOTION FOR LEAVE TO FILE RESPONSE BRIEF
IN EXCESS OF 25 PAGES**

Defendant Tom Vilsack, in his official capacity as Secretary of Agriculture, hereby seeks leave to file a 40-page response in opposition to Plaintiffs' Motion for Preliminary Injunction, in excess of the 25-page limit provided by Local Rule 7.2. The bases for this motion are provided below.

1. Plaintiffs' Complaint and Motion for Preliminary Injunction challenge a United States Department of Agriculture ("USDA") program designed to provide debt relief for socially disadvantaged farmers and ranchers, as authorized by the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (ARPA), on grounds that the program violates equal protection principles.

2. This recently authorized program, which is of significant interest to the government, has received media attention and is the subject of several other lawsuits in courts around the country. *See Faust et al. v. Vilsack et al.*, 1:21-cv-548 (E.D. Wis.); *Carpenter v. Vilsack et al.*, 21-cv-103-F (D. Wyo.); *Wynn v. Vilsack et al.*, 3:21-cv-514-MMH-JRK (M.D. Fla.); *Holman v. Vilsack et al.*, 21-cv-1085-STA-jay (W.D. Tenn.).

3. The program would allow USDA to provide debt relief to minority farmers who Congress determined were in acute need of such relief, but Plaintiff seeks to immediately enjoin USDA from doing so. To demonstrate that the relief Plaintiff requests is not warranted, Defendant will show that Congress had a strong basis in evidence to justify the debt relief authorized by ARPA.

4. In addition to the merits of Plaintiff's equal protection claim, Defendant will address the other factors for a preliminary injunction.

5. Accordingly, to enable Defendant to adequately respond to Plaintiff's arguments, including addressing the merits of Plaintiff's equal protection claim and the other preliminary injunction factors, and thereby fully assist the Court in resolving this motion, Defendant respectfully request leave to file a response brief of up to 40 pages.

6. If the Court grants Defendant's motion, Defendant would not oppose a proportional page extension of up to 15 for Plaintiffs' reply brief, should Plaintiffs request such an extension.

7. Given the importance of the issues involved in this case and the quantity of information to be addressed in order to adequately respond to Plaintiff's motion for a preliminary injunction, additional pages for Defendant's response is warranted and would be beneficial for full consideration of the issues by this Court.

8. Counsel for Defendant conferred with counsel for Plaintiffs, and Plaintiffs oppose the present motion.

Accordingly, Defendant respectfully request that the Court grant its motion for leave file a response brief of up to 40 pages.

DATED: June 7, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

LESLEY FARBY
Assistant Branch Director
Civil Division, Federal Programs Branch

/s/ Kyla M. Snow
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Counsel for Defendant

CERTIFICATE OF CONFERENCE

I certify that on Friday, June 4, and Sunday, June 6, I conferred via email with Jonathan F. Mitchell, counsel for Plaintiffs, who stated that Plaintiffs oppose the present motion.

/s/ Kyla M. Snow
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2021, I filed with the Court and served on opposing counsel through the CM/ECF system the foregoing document.

/s/ Kyla M. Snow
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